

Office Action Summary	Application No. 10/590,418	Applicant(s) AFRIAT, HERVE
	Examiner Jason C. Smith	Art Unit 3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 June 2010.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____

5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 08/23/2006 is being considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The instant claims are generally narrative in form, and replete with functional or operational language; wherein, it is not clear as to whether if the various elements as recited in the instant claims are intended to form parts of the instant claimed invention, or such elements are merely parts of the intended use environment of the instant claimed invention. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. Applicant is suggested to rewrite the instant claims in accordance with the U.S. practice to positively define the instant claimed invention. In claim 2, line 9, phases lacks antecedent basis. There are multiple antecedent problems in claim 2.

4. Regarding claim 1, the phrase "in a known manner per se" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
5. In line 8 of claim 1, "its control" is disclosed. What is "its control"?
6. Regarding claim 1, the word "means" is preceded by the word(s) "one power supply", "one electrical energy collection", and "one electrical energy storage means" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).
7. In line 31 of claim 1, the phrase "which controls energy distribution" is preceded by "on one hand storage means and on the other hand a traction chain", as to "which" are you referring?
8. There are numerous 112 problems with the claims, applicant is advised to rewrite the claims.

Claim Objections

9. Claims 5-12 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only, and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz (FR2825666) in view of Blackman (US3637956). Kurtz discloses a system for supplying extra low voltage electrical energy for at least one electrical traction vehicle (VC) running on a track and comprising: wheels (R) linked to said vehicle and rolling on said track, and at least one traction chain (R) of said vehicle acting on the wheels and comprising, in a manner known per se, at least one electric motor and its control, at least one extra low voltage power supply means installed in the immediate vicinity of the track, at least one first electrical energy collection means (MC) on board the vehicle and placed in moving contact with said first rail, at least one electrical energy storage means on board the vehicle (page 4, line 25 - page 6, line 10, and figs. 1-4B, see also page 22, line 20 - page 21, line 23). Kurtz discloses the system set forth above, but does not disclose an onboard power supply means. However, Blackman does disclose an onboard power supply means (col. 6, lines 10-27, see also col. 1, line 49 – col. 2, line 14, and figs. 1 and 8). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide an onboard supply means disclosed in Kurtz in view of the teaching of Blackman. The motivation for doing so would have been to power either the storage means or the traction chain; Kurtz does

not disclose the power supply means having a lower power than the power of the traction chain. However, it would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have a lower power for the power supply means. The motivation for doing so would have been to use a power supply means that was readily available at the time of the invention, as well as one that is more energy efficient. [claim 3] It would have been considered obvious to one of ordinary skill in the art, at the time the invention was made, to have multiple low voltage supply means', since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. The motivation for doing so would have been in case one of them was not powered; [claim 4] see abstract and col. 1, line 10 - and col. 2, line 31.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kurtz (FR2825666) in view of Blackman (US3637956) in view of Batisse (US6557476). Kurtz discloses the system set forth above, but does not disclose storing energy while braking. However, Batisse does disclose this feature (col. 1 – col. 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to provide this feature disclosed in Kurtz in view of the teaching of Batisse. The motivation for doing so would have been to provide a way to store energy while braking.

Response to Arguments

1. Applicant's arguments filed 06/08/2010 have been fully considered but they are not persuasive. It appears that the applicant's arguments are more limiting than that of

the claims. Specifically, the applicant states that the art of record fails to show the external power supply and the onboard storage means acting simultaneously to feed the traction chain. However, applicant is arguing the references singularly; Blackman discloses the onboard supply means and in doing so, Blackman's supply means is capable of feeding the traction chain. With regards to the new limitation of claim 1, please see rejection above.

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason C. Smith whose telephone number is (571) 270-5225. The examiner can normally be reached on M-F, 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

/Jason C Smith/
Examiner, Art Unit 3617